



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-860-1993 (O&M)

Reserved on :-29.01.2026

Date of Pronouncement:-03.02.2026

Uploaded on:-04.02.2026

Smt. Surji and Others

... Appellants

Versus

Jagdish and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Rajiv Sharma (Hisarwale), Advocate,
Mr. Vinayak Atri, Advocate and
Ms. Indu Bala Sharma, Advocate
for the appellants.

Mr. Jaivir Yadav, Senior Advocate with
Mr. Ashutosh Sharma, Advocate and
Mr. Aman Gautam, Advocate
for the respondents.

VIRINDER AGGARWAL, J.

1. The appellants–defendants, profoundly aggrieved by the judgment and decree dated 06.04.1993 of the learned Additional District Judge, Narnaul, which overturned the considered and meticulously reasoned judgment and decree dated 05.11.1990 of the learned Sub-Judge Ist Class, Mahendergarh, invoke the extraordinary appellate jurisdiction of this Court through the present Regular Second Appeal (for short “RSA”) for the restoration of the lawful and unimpeachable decree of the learned Trial Court and for redress against the manifest miscarriage of justice



occasioned by the impugned decision; it is respectfully submitted that the impugned judgment and decree are palpably perverse, vitiated by substantial errors of law, and founded upon a fundamentally flawed and incomplete appreciation of the evidentiary record, resulting in grave injustice to the appellants, who accordingly pray that this Court set aside the impugned judgment and decree and reinstate the well-reasoned, just, and unassailable decree of the learned Trial Court.

2. The brief factual matrix giving rise to the present appeal may be succinctly recapitulated as follows:-

“The plaintiffs instituted the present suit for permanent injunction, asserting that they are joint owners and in lawful possession of the suit land. It was specifically averred that plaintiffs 1, 3, 5, and 7 had also purchased the respective shares of Karan Singh and Ravinder by virtue of sale deeds dated 08.06.1985 and 06.11.1985. The plaintiffs contended that the defendants, without any right, title, or interest, caused their names to be incorporated in the revenue record in respect of the kharif crop of 1985. Such entries, it was pleaded, are not binding upon the plaintiffs, and the defendants have further threatened to interfere with the possession of the plaintiffs without lawful authority. It is upon these contentions that the plaintiffs instituted the present suit.”

3. The defendants, having been duly served, appeared and submitted written statement, opposing the suit in its entirety and denying all material allegations raised by the plaintiffs:-

“It was contended that the plaintiffs lack locus standi to maintain the suit, that the suit is not maintainable in its present form, is barred by limitation, and that the plaintiffs are estopped from filing the suit by virtue of their own acts and conduct. The defendants further sought



special costs under Section 35(4) of the Code of Civil Procedure. On merits, it was averred that one Bunia Ranpat had been a tenant as Gair-e-Asr over the suit land, paying a yearly rent of ₹75/-, and that he had expired approximately six to seven years prior, with his tenancy rights being inherited by the defendants. It was further contended that the defendants had purchased a portion of the suit land and thereby acquired joint ownership and possession to the extent of 55/512 share. The defendants specifically denied that the subsequent change in the khasra girdawari incorporating their names into the revenue record was illegal, void, or liable to be set aside.”

4. Having thoroughly scrutinized the pleadings, documents, and oral and written submissions of the parties, the Court framed the requisite issues to enable a judicious, accurate, and holistic adjudication of the matters in controversy, as set out below:-

1. *Whether the plaintiffs are owners in possession of the property detailed in the head note of the plaint ?.*
2. *Whether the plaintiffs have no locus-standi to file the present suit? OPD.*
3. *Whether the suit is time barred? (NOTE: The onus of proof has not been specifically or expressly assigned in the judgments rendered by both the learned Courts below.)*
- 1-A. *Whether the defendants have become co-sharers in the suit land vide x sale deed No. 812 dated 8.9.70 and residing there on after constructing their residential houses? OPD.*
5. *Relief.*

5. Both parties were afforded a full and fair opportunity to adduce evidence in support of their respective claims. Upon the conclusion of the trial and after hearing learned counsel for both sides, the learned Trial Court proceeded to dismiss the suit, observing as follows:-



“In view of the foregoing discussion and having considered the issues in their entirety, the plaintiffs have failed to establish their case. Accordingly, the suit stands dismissed. No order as to costs is made.”

6. Dissatisfied with the judgment and decree, the respondents—appellants preferred an appeal before the learned First Appellate Court, which, upon due consideration of the record and the submissions advanced, allowed the appeal and recorded its observations as follows:-

“On a careful review of the record, it is established that the appellants are in lawful possession of the suit land as co-sharers. The correction of the khasra girdawari by the revenue authorities (Mutation Ex.D-12) and the Special Collector’s order (Ex.P-8) confirm their possession. Until partition is effected by the respondents, the appellants are entitled to remain in possession. Accordingly, the appeal is allowed, the judgment and decree of the learned Trial Court dated 05.11.1990 are set aside, and the plaintiffs’ suit is decreed, with each party bearing their own costs.

6.1. Challenging the determinations of the learned First Appellate Court, the appellants—defendants instituted the present appeal. Upon its admission, notices were issued, following which the respondents, through their counsel, appeared and opposed the appeal. The records of the learned Courts below have been requisitioned and are accessible for thorough examination and adjudication.

7. I have heard learned counsel for the parties and considered their submissions in conjunction with the pleadings, evidence, and findings recorded by the Courts below. The entirety of the record has been meticulously examined with a view to determining whether the impugned judgment and decree are tainted by any legal infirmity, procedural



irregularity, or misappreciation of evidence that would warrant interference by this Court.

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellants has assailed the judgment and decree passed by the learned First Appellate Court, contending that the findings recorded on Issues No. 1 and 1-A are legally unsustainable and contrary to the admitted factual matrix on record. It is urged that the learned First Appellate Court has gravely erred in returning findings in favour of the respondents-plaintiffs and against the appellants, despite the unequivocal admission that the appellants are owners in possession of 55/512 share of the total suit land, whereas the respondents-plaintiffs hold ownership to the extent of 234/512 share thereof.

9.1. It is further not in dispute between the parties that the predecessor-in-interest of the appellants, namely Runia @ Ranpat, was a tenant over the land in dispute prior to its purchase by the respondents vide



sale deed dated 19.07.1970 Ex.DX and subsequent sale deeds dated 06.11.1985 and 08.06.1985. It is also an admitted position that the appellants themselves purchased a share in the suit land vide sale deed dated 07.09.1970 Ex.D1. Upon the death of Runia, the appellants inherited the tenancy rights and, coupled with their status as co-owners, came into possession of the suit land. It is specifically contended that the respondents never obtained actual physical possession of any specific portion of the land pursuant to the alleged ejectment order Ex.D11.

9.2. Learned counsel for the appellants has, therefore, submitted that the learned First Appellate Court has erroneously recorded a finding of exclusive possession in favour of the respondents-plaintiffs. It has been argued that the court below failed to appreciate the settled principle of law that each co-sharer is presumed to be in possession of every inch of the joint property until partition. It is further contended that no injunction can ordinarily be granted against a co-owner in respect of joint land. On these premises, it is prayed that the impugned judgment and decree be set aside and the appeal filed by the appellants be allowed.

10. Per contra, learned counsel appearing on behalf of the respondents-plaintiffs has opposed the appeal, submitting that the contentions raised by the appellants are devoid of merit. It has been argued that the respondents-plaintiffs were delivered exclusive possession of the suit land in pursuance of the ejectment order Ex.D11, as duly recorded in Rapat Ex.P1. Their exclusive possession is further reflected in the Jamabandi for the year 1979-80 Ex.P2.



10.1. Learned counsel for the respondents-plaintiffs has emphasized that the entries in the Jamabandi carry a statutory presumption of truth under Section 44 of the Punjab Land Revenue Act, 1887, which has not been rebutted by the appellants. It is a settled proposition of law that a co-owner who is in exclusive possession of joint property is entitled to protect such possession against forcible or unlawful dispossession. Consequently, it has been prayed that the appeal be dismissed and the findings and decree passed by the learned First Appellate Court be upheld.

11. It is an admitted position on record that Rania @ Ranpat, the predecessor-in-interest of the appellants-defendants, was in possession of the suit land in his capacity as a tenant, and that the appellants-defendants subsequently acquired an ownership interest therein by way of sale deed Ex.D1. Consequently, the appellants-defendants indisputably attained the status of co-owners in the suit property. The learned First Appellate Court has founded its conclusions primarily upon the ejectment order passed by the competent authority, a certified copy whereof has been placed on record as Ex.D11, as well as the corresponding Rapat Rojnamcha Ex.P1.

11.1. A perusal of ejectment order Ex.D11 reveals that Rania @ Ranpat was directed to hand over possession of the suit land to the respondents-plaintiffs, and the said direction was effectuated in terms of Rapat Ex.P1, whereby possession stood delivered to the respondents-plaintiffs. However, there is no evidence forthcoming on record to demonstrate any subsequent change in possession after 15.06.1974, when possession of Khasra Nos. 112//2, 3, 9, 12, 13, 18, 22, 23 and 85//23/2,



24/2, measuring 87 kanals 8 marlas and constituting 234/512 share of the entire joint khewat, was handed over to the decree-holders.

11.2. The possession of aforesaid khasra numbers, forming the subject matter of the present suit, were delivered to Sajjan Singh, Lal Singh, Vijay Singh sons of Ram Swarup Singh; Ravinder Singh son of Piare Lal; Karan Singh; Mohinder Singh son of Umrao Singh; and Jagdish Chander @ Chajju Ram son of Chunni Lal. Their exclusive possession over the suit property is duly reflected in the Jamabandi for the year 1979-80. The revenue entries contained therein carry a statutory presumption of correctness under Section 44 of the Punjab Land Revenue Act, 1887, which has remained unrebutted by any cogent evidence on behalf of the appellants-defendants.

12. It is also not in dispute that the appellants-defendants are co-owners of the suit property by virtue of their purchase under sale deed Ex.D1. The Jamabandi Ex.P2 further evidences that the predecessor-in-interest of the appellants-defendants was in exclusive possession of Khasra Nos. 121//2 (8-0), 9 (8-0) and 112//4 (8-0), 7 (8-0), 8 (8-0), measuring a total of 40 kanals. Significantly, the respondents-plaintiffs have neither laid any claim nor instituted any proceedings in respect of the aforesaid khasra numbers. The present suit has been confined only to those khasra numbers wherein the respondents-plaintiffs are shown to be in exclusive possession, having obtained the same pursuant to ejectment order Ex.D11 through Rapat Ex.P1, which fact also finds corroboration in the Jamabandi Ex.P2.



12.1. It is a well-settled principle of law that a co-sharer who is in exclusive possession of a defined portion of joint land is entitled to safeguard such possession by seeking injunctive relief against another co-sharer and cannot be dispossessed except in accordance with due process of law. This legal position stands authoritatively affirmed by this Court in ***Tara Chand and others vs. Siri Pal and others, 2020(1) RCR (Civil) 30***, wherein it was held as under:-

“There cannot be dispute about settled position in law that a co-owner in exclusive possession is entitle to protect his possession against forcible intervention by other co-sharers except in due course of law namely seeking partition of the joint land. The appellants-plaintiffs being in exclusive possession of suit land as proprietors of aforesaid pana are entitle to protect their possession against forcible intervention by the respondents-defendants or other co-sharers of the aforesaid pana.”

13. Upon a cumulative consideration of the entire factual matrix and the settled legal position governing the rights of co-owners, it stands clearly established that the respondents-plaintiffs are in exclusive possession of the suit property. Being co-owners in settled and lawful possession, they are fully entitled to protect such possession against any act of forcible or unlawful dispossession at the hands of the appellants-defendants. The appellants-defendants, also being co-owners, have no right to disturb such possession otherwise than in accordance with law, and their appropriate and efficacious remedy lies in seeking partition of the joint property.

13.1. In view of the foregoing discussion, this Court finds no merit in the present appeal. Consequently, the appeal is dismissed, and the



judgment and decree passed by the learned First Appellate Court are hereby upheld and affirmed.

14. Having conclusively disposed of the principal appeal on merits, all ancillary or interlocutory applications, if pending, shall stand disposed of by necessary operation of law. No further orders are required in this regard.

03.02.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No